IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

Crl.MC.No. 2002 of 2007()

AGAINST THE ORDER DATED 07/06/2007 IN CRMP.1116/07 IN CRA.460/2007 of SESSIONS COURT, KOZHIKOE

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PETITIONER: ACCUSED

KABEER, S/O.ABDULLA, AGED 24 YEARS,
PARACHALIL, CHEKKIYAD AMSOM DESOM.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA, THROUGH THE
STATION HOUSE OFFICER, VALAYAM POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2002 of 2007

Dated this the 22nd day of June 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 392 I.P.C. He challenged the decision of the trial court before the learned Sessions Judge. The learned Sessions Judge, by the impugned order, did not direct suspension of sentence. The court took note of the fact that the petitioner had been found guilty and convicted in an earlier theft case. The court took note of the opposition by the Sub Inspector of Police of the concerned police station that the petitioner is a habitual offender. In these circumstances, the learned Judge held that this is not a fit case to suspend the sentence. However, it is observed that the appellant can request for an early hearing of the appeal. Accordingly this petition was dismissed with the said observations.

2. The learned counsel for the petitioner submits that the appeal has not been disposed of yet. The petitioner's

marriage is scheduled to take place on 08/07/2007. The refusal to sustain the sentence is causing the petitioner great hardship, loss and inconvenience. Appropriate directions may be issued to sustain the sentence.

3. I have heard the learned counsel for the petitioner. I have perused the impugned order, Annexure A2. While the exercise of discretion by the learned Sessions Judge cannot be said to be perverse as to warrant invocation of the powers under Section 482 Cr.P.C against the same, I am certainly of the opinion that in such a case, the learned Sessions Judge must have immediately proceeded to dispose of the appeal instead of merely offering an opportunity to the appellant to make a request for early hearing of the appeal. The interests of justice demand that when the first appellate court does not suspend the sentence, the court must itself show anxiety to get the appeal itself disposed of expeditiously. It is submitted that the appeal has not been disposed of yet. I am satisfied that the interests of justice shall be served eminently by directing the learned Sessions Judge to dispose of the appeal, as expeditiously as possible, at any rate, before 2/7/2007. If the appeal is not

disposed of by the learned Sessions Judge by that date, the learned Sessions Judge shall on that day direct suspension of the sentence subject to appropriate terms. Compliance shall be reported to this court.

4. In the result, this Criminal Miscellaneous Case is allowed in part to the above extent.

5. Hand over copy of this order to the learned counsel for the petitioner for production before the learned Sessions Judge. The registry shall also convey the direction to the learned Sessions Judge forthwith.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007